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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 J & J SPORTS PRODUCTIONS, INC.,

Case No. 2:17-CV-1854 JCM (VCF)

8 Plaintiff(s),

ORDER

9 v.

10 GUS ESCOBAR LLC, et al.,

11 Defendant(s).

12
13 Presently before the court is the matter of *J & J Sports Productions, Inc. v. Gus Escobar*
14 *L.L.C. et al.*, case number 2:17-cv-01854-JCM-VCF.

15 Federal Rule of Civil Procedure 41(b) provides that “[i]f the plaintiff fails to prosecute or
16 to comply with these rules or a court order, a defendant may move to dismiss the action or any
17 claim against it.” Fed. R. Civ. P. 41(b). Although this rule only references dismissal upon
18 defendant’s motion, the Supreme Court in *Link v. Wabash R. Co.* held as follows:

19 Neither the permissive language of the Rule—which merely
20 authorizes a motion by the defendant—nor its policy requires us to
21 conclude that it was the purpose of the Rule to abrogate the power
22 of courts, acting on their own initiative, to clear their calendars of
23 cases that have remained dormant because of the inaction or
24 dilatoriness of the parties seeking relief. The authority of a court
25 to dismiss *sua sponte* for lack of prosecution has generally been
26 considered an ‘inherent power,’ governed not by rule or statute but
27 by the control necessarily vested in courts to manage their own
28 affairs so as to achieve the orderly and expeditious disposition of
cases.

Link v. Wabash R. Co., 370 U.S. 626, 630–31 (1962).

The Supreme Court specifically affirmed “the power of courts, acting on their own
initiative, to clear their calendars of cases that have remained dormant because of the inaction or

1 dilatoriness of the parties seeking relief.” *Id.* at 630. Thus, Rule 41(b) authorizes district courts
2 to sua sponte dismiss actions for failure to prosecute or to comply with court orders or the
3 Rules. *Pagtalunan v. Galaza*, 291 F.3d 639, 640–43 (9th Cir. 2002);

4 This power is also codified in this court’s local rules. Local Rule 41-1 provides that
5 “[a]ll civil actions that have been pending in this court for more than 270 days without any
6 proceeding of record having been taken may, after notice, be dismissed for want of prosecution
7 by the court sua sponte or on the motion of an attorney or pro se party.” LR 41-1.

8 Plaintiff filed its complaint on July 6, 2017. (ECF No. 1). Defendants never answered.
9 Plaintiff failed to prosecute this case until this court issued notice to counsel pursuant to Local
10 Rule 41-1. (ECF No. 7). On August 30, 2018—two days after this court’s notice—plaintiff
11 moved for entry of clerk’s default, which was entered the following day. (ECF Nos. 8; 9).

12 Plaintiff never moved for default judgment. On January 14, 2020, the court gave the
13 parties notice that it would dismiss this case if no action was taken within 30 days. (ECF No.
14 11). Neither party took action.

15 Accordingly,

16 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that plaintiff’s complaint be,
17 and the same hereby is, DISMISSED. The clerk is instructed to enter judgment and close the
18 case accordingly.

19 DATED March 5, 2020.

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22 UNITED STATES DISTRICT JUDGE
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